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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

No. 1046

EDMOND J. HAMILTON and JOHN L. DATENHOFF,
Appellants,

v.

JOHN J. McKEITHEN, GOVERNOR OF THE STATE OF LOUISIANA, *Appellee,*

AMERICAN RICE GROWERS COOPERATIVE ASSOCIATION, LAKE CHARLES MARITIME ASSOCIATION, GREATER LAKE CHARLES CHAMBER OF COMMERCE, WEST CALCASIEU CHAMBER OF COMMERCE, JESSE M. KNOWLES, A. C. CLEMONS, JR., HARRY M. HOLLINS, ROBERT G. JONES, WILLIAM L. McLEOD, JR., WILLIAM S. BOYD, and CONWAY LEBLEU, *Intervenors-Appellees.*

On Appeal From the Supreme Court of the State of Louisiana

SUPPLEMENTAL BRIEF OF AMERICAN RICE GROWERS COOPERATIVE ASSOCIATION, INTERVENOR-APPELLEE, IN SUPPORT OF MOTION TO DISMISS OR AFFIRM FILED IN BEHALF OF ALL APPELLEES

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The motion to dismiss or affirm heretofore filed on behalf of all appellees contained all of the authorities then known and relied upon by appellees in support of the motion. This supplemental brief is filed in behalf

of AMERICAN RICE GROWERS COOPERATIVE ASSOCIATION, one of the appellees, under the authority of this court's Rule 16, Paragraph 5, to call attention to a new case not available at the time of the filing of the motion. It is submitted that the case of *Shapiro* v. *Doe*, — U.S. —, 90 S.Ct. 641, decided by this Honorable Court on January 26, 1970, is determinative of the issue before the court on the motion to dismiss.

In *Shapiro*, the time limit for docketing the case expired November 1, 1969, which was a Saturday. The following day, November 2, 1969, was a Sunday. On the next day, November 3, 1969, a Monday, the case was in fact docketed by the appellants. This Honorable Court dismissed the appeal in the *Shapiro* case because the case was not docketed within the time prescribed by Rule 13.

In the instant proceeding the delay for docketing the case expired on January 6, 1970. January 6, 1970 was a Tuesday, and thus a judicial day on which appellants could have docketed the case, but did not do so. The following day, January 7, 1970, was a Wednesday, also a judicial day on which appellants could have attempted to docket the case, but did not do so. The case was not docketed until Thursday, January 8, 1970.

It can be seen that appellants were two days late docketing the case in this proceeding which is the identical period by which the appellants were late in the *Shapiro* case. Moreover, the appellants in this case did not have the excuse that the two days immediately preceding the late docketing were a Saturday and Sunday. Since the *Shapiro* case was properly dismissed, it is manifestly obvious that the appeal in this case should likewise be dismissed.

Should this court choose to overlook appellants' failure to timely docket the case, the appeal should nevertheless be dismissed (or the judgment below affirmed) because of the unsubstantiality of the questions presented, for the reasons and under the authorities set out at length in the motion to dismiss or affirm.

Respectfully submitted,

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